

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE **05 APR 20 PM 4:21**
EASTERN DIVISION

FILED BY D.C.

ROBERT R. DI TROIO
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WD. OF TN.-JACKSON

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
VS.) No. 04-10067-T-An
)
MICHAEL BRAD JUMPER,)
)
Defendant.)

ORDER DENYING MOTION TO DISMISS COUNTS ONE AND TWO

Defendant Michael Brad Jumper has moved the court to dismiss counts one and two of the indictment that was filed against him [Docket # 15]. According to Defendant, these two counts allege that Defendant "conspired to combine, confederate, and agree with others to manufacture methamphetamine and to unlawfully, knowingly, and intentionally attempt to manufacture a mixture of methamphetamine" but do not allege the actions of any person other than Defendant which is necessary to form a conspiracy.

It is well-settled that a person can be convicted of conspiring with persons whose names are unknown as long as the indictment asserts that such other persons exist and the evidence supports their existence. See Rogers v. United States, 340 U.S. 367, 375 (1951) ("Of course, at least two persons are required to constitute a conspiracy, but the identity of the other members of the conspiracy is not needed, inasmuch as one person can be convicted

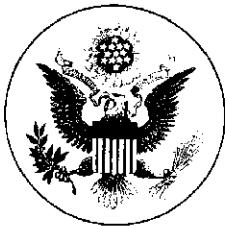
of conspiring with persons whose names are unknown.") In the present case, count one of the indictment asserts that Defendant conspired with "persons both known and unknown." Therefore, if the evidence supports such an allegation, then Defendant can be convicted of the conspiracy alleged in count one. Count two of the indictment does not allege a conspiracy.

For these reasons, Defendant's motion is DENIED.

IT IS SO ORDERED.

James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE

20 April 2005
DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 34 in case 1:04-CR-10067 was distributed by fax, mail, or direct printing on April 20, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT